

**REMARKS**

Entry of the foregoing amendments is respectfully requested.

**Summary of Amendments**

By the foregoing amendments claims 1-15 are cancelled and claims 16-49 are added, whereby claims 16-49 will be pending, with claims 16, 35 and 42 being independent claims.

Support for the new claims can be found throughout the present specification and in particular, the original claims and pages 2, 3, 7, 8 and 11-13 of the specification. With respect to claim 27, Applicants note that the highest concentration of component (c) in the Examples of the present application is 27.5 % by weight (see, e.g., the compositions of Examples 1, 2 and 5, all of which comprise 10.00 % by weight of butylene glycol and 17.50 % by weight of propylene glycol).

Applicants emphasize that the cancellation of claims 1-15 is without prejudice or disclaimer, and Applicants expressly reserve the right to prosecute the cancelled claims in one or more continuation and/or divisional applications.

**Summary of Office Action**

Claims 1-15 are rejected under the judicially created doctrine of obviousness-type double patenting as being allegedly unpatentable over claims 1-11 of U.S. Patent No. 6,706,673.

P29707.A01

Claims 1-15 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Klueppel et al., U.S. Patent No. 5,145,665 (hereafter "KLUEPPEL").

Claims 1-7 and 10-15 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Giret et al., U.S. Patent No. 5,409,640 (hereafter "GIRET").

### **Response to Office Action**

Reconsideration and withdrawal of the rejections of record are respectfully requested in view of the foregoing amendments and the following remarks.

### ***Response to Double Patenting Rejection***

Claims 1-15 are rejected under the judicially created doctrine of obviousness-type double patenting as being allegedly unpatentable over claims 1-11 of U.S. Patent No. 6,706,673.

A Terminal Disclaimer with respect to the '673 patent was filed on March 27, 2006. Applicants respectfully request that this Terminal Disclaimer be entered and accepted. Accordingly, this rejection is moot.

Applicants emphasize that the submission of the Terminal Disclaimer is not to be construed as Applicants' admission that the corresponding allegations set forth in the present Office Action are of any merit but merely is to expedite the issuance of a patent with the claims submitted herewith.

***Response to Rejection of Claims under 35 U.S.C. § 103(a) over KLUEPPEL***

Claims 1-15 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over KLUEPPEL for the reasons of record.

Applicants respectfully traverse this rejection for all of the reasons which have been set forth in the replies to the previous Office Actions. The corresponding remarks are incorporated herein in their entireties.

In addition, Applicants submit that in response to Applicants' arguments set forth in the Amendment filed September 8, 2005, the Examiner comments on merely one single remark allegedly made by Applicants with respect to KLUEPPEL, i.e., that this document, by referring to polyethylene glycols having molecular weights of 1,500 to 1,000,000, reads on literally millions of species (see top of page 3 of the present Office Action). In this regard, Applicants point out that the complete passage in the Amendment filed September 8, 2005 reads (page 8, third full paragraph):

And, among the viscosity regulators, Klueppel lists Carbopol® type polymers, again, as one of thousands of possible ingredients, including starches, starch ethers, cellulose ethers, pectins, polyethylene glycols having molecular weights of 1,500 to 1,000,000, thereby reading on literally millions of species.

Applicants respectfully maintain that the group of Carbopol® type polymers, starches, starch ethers, cellulose ethers, pectins and polyethylene glycols having molecular weights of 1,500 to 1,000,000 indeed comprises a large number of species. Whether this group comprises millions of species or thousands or hundreds of species is of no relevance whatsoever as long as the Examiner has failed to explain why one of ordinary skill in the art would have been motivated by KLUEPPEL to select, among the large number of various types of substances listed in column 3, lines 30-40 of KLUEPPEL

P29707.A01

the water-soluble carboxyvinyl polymers as viscosity regulators for the toothpastes and toothcreams disclosed therein. In this regard, Applicants also note that in the formulation examples of KLUEPPEL Na carboxymethyl cellulose is used as viscosity regulator, i.e., not a water-soluble carboxyvinyl polymer.

Applicants also emphasize that the Examiner still needs to explain why there would be motivation to combine an alkyl monoglucoside, a water-soluble carboxyvinyl polymer as viscosity regulator and a humectant such as, e.g., glycerol in order to prepare the preparations for dental and oral hygiene of KLUEPPEL.

In this regard, it is noted that the disclosure of KLUEPPEL is not limited to alkyl monoglycosides but also encompasses oligoglucosides of the general formula depicted in column 2, line 24 thereof. There is no motivation provided to specifically pick and choose monoglycosides.

Moreover, even if the general formula in column 2, line 24 of KLUEPPEL encompasses the 1-alkyl glucosides recited in the present independent claims, this general formula is not limited to 1-glucosides, but encompasses all other alkyl monoglucosides as well, i.e., the 2-glucosides, the 3-glucosides, the 4-glucosides and the 6-glucosides. KLUEPPEL does not teach or suggest to specifically pick and choose the 1-glucosides.

Applicants further note that an additional reason why KLUEPPEL does not render obvious the subject matter of present dependent claims 33, 41 and 46 is the fact that the incorporation of a perfume in a preparation for dental and oral hygiene would be unacceptable for apparent reasons.

Further, with respect to independent claim 42 it is submitted that KLUEPPEL does not teach or suggest a composition which consists essentially of the components recited in

P29707.A01

claim 42. In this respect, Applicants note that one of the essential components of the preparations of KLUEPPEL is a polysaccharide-splitting enzyme (see, e.g., claim 1 of KLUEPPEL).

For at least all of the foregoing reasons and the reasons set forth in the replies to the previous Office Actions, KLUEPPEL fails to render obvious the subject matter of any of the claims submitted herewith. Accordingly, the claim rejection under 35 U.S.C. § 103(a) over KLUEPPEL is unwarranted and should be withdrawn, which action is respectfully requested.

***Response to Rejection of Claims under 35 U.S.C. § 103(a) over GIRET***

Claims 1-7 and 10-15 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over GIRET.

Applicants respectfully traverse this rejection for all of the reasons which have been set forth in the replies to the previous Office Actions. The corresponding remarks are incorporated herein in their entireties.

In addition, Applicants submit that in response to Applicants' arguments set forth in the Amendment filed September 8, 2005, the Examiner does not explain at all why Applicants' arguments with respect to GIRET have not been found convincing.

Applicants specifically point out that GIRET does not recommend using (mono)alkyl monoglucosides, but on the contrary specifically refers to alkyl polysaccharides of general formula (VI) in which t (the weight average degree of polycondensation) can be from 0 to 10 and wherein z (the weight average number of alkyl substitutents Z on a glucose unit) can be from about 1.5 to 4 (col. 5, lines 59-68; col. 6, lines 13-19).

P29707.A01

Moreover, the carboxyvinyl polymers that can theoretically (and optionally) be present in the compositions of GIRET as polymeric hair and skin conditioning agents belong to the class of anionic polymers. GIRET specifically states that cationic and non-ionic agents are preferred for this purpose (col. 7, lines 48-49). It is not surprising then that the two polymers used in the Examples of GIRET are not anionic polymers, let alone carboxyvinyl polymers, but cationic polymers. It is not seen how under these circumstances GIRET can provide motivation to employ anionic polymers, and specifically the gel-forming acrylate-alkyl acrylate copolymers recited in the present independent claims, as polymeric hair and skin conditioning agents.

Further, with respect to independent claim 42 it is submitted that GIRET does not teach or suggest a composition which consists essentially of the components recited in claim 42. In this respect, Applicants note that one of the essential components of the preparations of GIRET is a specific adduct prepared from vegetable oils (see, e.g., claim 1 of GIRET).

For at least all of the foregoing reasons and the reasons set forth in the replies to the previous Office Actions, GIRET fails to render obvious the subject matter of any of the claims submitted herewith. Accordingly, the claim rejection under 35 U.S.C. § 103(a) over GIRET is unwarranted, wherefore withdrawal thereof is respectfully requested.

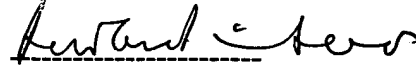
### **CONCLUSION**

In view of the foregoing, it is believed that all of the claims in this application are in condition for allowance, which action is respectfully requested. If any issues yet remain which can be resolved by a telephone conference, the Examiner is respectfully invited to

P29707.A01

contact the undersigned at the telephone number below.

Respectfully submitted,  
Heike LERG et al.

A handwritten signature in cursive script, appearing to read "Neil F. Greenblum", written over a horizontal line.

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